

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ryan Meltzer	Team: Team # 5	CCRB Case #: 200715246	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 10/16/2007 12:15 AM	Location of Incident: § 87(2)(b) and § 87(2)(b)	Precinct: 33	18 Mo. SOL 4/16/2009	EO SOL 4/16/2009	
Date/Time CV Reported Tue, 10/16/2007 11:33 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 10/19/2007 11:15 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Gregory Pekera	04870	919546	PBMN TF
2. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Peter Bolte	30919	933649	PBMN TF
2. POF Diane Johnson	21463	943408	MN IRT
3. POM Kamal Mcallister	23608	943540	MN IRT
4. POM Andrew Miles	18467	943569	MN IRT
5. SGT Gilbert Vega	04451	923306	033 PCT
6. POM Miroslav Maric	10128	932957	PBMN TF

Officer(s)	Allegation	Investigator Recommendation
A.SGT Gregory Pekera	Abuse: Sgt. Gregory Pekera stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
B.SGT Gregory Pekera	Force: Sgt. Gregory Pekera used physical force against § 87(2)(b)	
C.SGT Gregory Pekera	Discourtesy: Sgt. Gregory Pekera spoke obscenely and rudely to § 87(2)(b)	
D. An officer	Force: An officer used physical force against § 87(2)(b)	
E.SGT Gregory Pekera	Abuse: Sgt. Gregory Pekera stopped § 87(2)(b) and § 87(2)(b)	
F.SGT Gregory Pekera	Abuse: Sgt. Gregory Pekera searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.	

Officer(s)	Allegation	Investigator Recommendation
G. An officer	Discourtesy: An officer spoke obscenely and rudely to § 87(2)(b)	

Synopsis

On October 16, 2007 at approximately 12:15 AM, § 87(2)(b) and § 87(2)(b) were driving south along § 87(2)(b) in Manhattan, when § 87(2)(b)'s vehicle was stopped at § 87(2)(b) and § 87(2)(b) by an unmarked Ford Crown Victoria containing Sgt. Gregory Pekera, PO Peter Bolte, and PO Miroslav Maric, of Patrol Borough Manhattan North Task Force (**Allegation A**). § 87(2)(b) claimed to be unaware of the officers' presence behind § 87(2)(b)'s car, so he exited the vehicle with the intention of crossing the street and jogging to a smoke shop at the corner of § 87(2)(b) and § 87(2)(b). As he stepped out of the vehicle, § 87(2)(b) alleged, Sgt. Pekera and the passenger in the unmarked vehicle ran up to him, and Sgt. Pekera grabbed the front of § 87(2)(b)'s jacket, pulled § 87(2)(b) completely out of the car, used his forearm to push § 87(2)(b)'s back against the vehicle, and threw § 87(2)(b) chest-down onto the pavement (**Allegation B**). Sgt. Pekera allegedly asked § 87(2)(b) "Where the fuck are you going? Were you trying to run from us?" (**Allegation C**). As § 87(2)(b) lay on his chest on the ground, the passenger in the unmarked vehicle bent down and punched him once in the side of the face (**Allegation D**). The officers recovered a quantity of marijuana on § 87(2)(b)'s person, in addition to a gravity knife which § 87(2)(b) allegedly dropped at the scene of the stop, and § 87(2)(b) was placed under arrest for § 87(2)(b). At some point during this incident, § 87(2)(b) said, the officers removed § 87(2)(b) and § 87(2)(b) from § 87(2)(b)'s car, and Sgt. Pekera searched this vehicle (**Allegations E and F**). Finally, § 87(2)(b) alleged that when he was placed in the unmarked Crown Victoria to be transported to the 34th Precinct station house, the passenger in the unmarked vehicle remarked, "If you wouldn't have tried to run, we would have let you go...But we saw that you were going to try to run, so now you're in deep shit" (**Allegation G**).

§ 87(2)(g)

Summary of Complaint

§ 87(2)(b)'s sister, § 87(2)(b) filed this complaint at IAB on October 16, 2007 at 11:33 AM (Encl. 6A-B). § 87(2)(b) was not a witness to § 87(2)(b)'s arrest, but she reported to IAB that she had heard from a cousin's friend that § 87(2)(b) had been pulled out of a car by four male officers, struck in the head with a police radio, and punched and kicked while on the ground. § 87(2)(b) was reached by telephone on October 24, 2007, at which time she confirmed the facts she provided to IAB (Encl. 9).

§ 87(2)(b) was interviewed at § 87(2)(b) on December 5, 2007 (Encl. 8A-H). § 87(2)(b) is a § 87(2)(b) Hispanic male, 5'7", 175 lbs., with black hair and brown eyes. § 87(2)(b)

§ 87(2)(b)

On October 16, 2007 at approximately 12:00 AM, § 87(2)(b) was inside of his apartment at § 87(2)(b), in Manhattan, when he received a phone call from his friend, § 87(2)(b) inviting him to come downstairs and smoke marijuana with him at the West Side Highway (around § 87(2)(b) § 87(2)(b)). § 87(2)(b) knows § 87(2)(b) because § 87(2)(b) hangs out around § 87(2)(b) neighborhood.

§ 87(2)(b) was later identified by the CCRB as § 87(2)(b). On this night, § 87(2)(b) was wearing dark blue jeans, a green leather Pele Pele jacket, and a brown baseball hat.

§ 87(2)(b) walked downstairs and met § 87(2)(b) at § 87(2)(b) and § 87(2)(b). § 87(2)(b) was inside of a vehicle—a grey Honda sedan with New Jersey license plates—which was parked on § 87(2)(b) and § 87(2)(b) facing downtown. § 87(2)(b) was with two friends who § 87(2)(b) had only seen two or three times prior to this incident. § 87(2)(b) did not know the names of these men, but he described both men as black males, 6’1”-6’2”, 185 lbs., 27-28 years old, with tattoos. (These men were later identified by the CCRB as § 87(2)(b) and § 87(2)(b).) One of the black males, the taller of the two, was driving the vehicle, while the shorter black male was seated in the front passenger seat. § 87(2)(b) did not know the owner of the vehicle. § 87(2)(b) entered the car and sat down in the rear driver’s side seat. § 87(2)(b) was seated in the rear passenger seat, and the shorter black male was seated in the front passenger seat.

After § 87(2)(b) got into the vehicle, § 87(2)(b) told § 87(2)(b) that they needed to buy a White Owl (a cigar used for smoking marijuana). As they were pulling away from the curb and driving downtown along § 87(2)(b), § 87(2)(b) observed a dark blue Crown Victoria driving past in the opposite direction. (He initially described this vehicle as a police car, but clarified that he was not aware that it was a police car at this point.) The dark blue Crown Victoria pulled up behind § 87(2)(b) vehicle around § 87(2)(b) and § 87(2)(b) as § 87(2)(b) vehicle was turning east onto § 87(2)(b) towards § 87(2)(b). There was a smoke shop at the corner of § 87(2)(b) and § 87(2)(b) so when they were stopped at a traffic light at the intersection of § 87(2)(b) and § 87(2)(b), § 87(2)(b) told § 87(2)(b) to step out of the vehicle and run across the street to get to the smoke shop—thereby beating the car, which was stopped at the traffic light, to the store. Meanwhile, the dark blue Crown Victoria pulled up directly behind § 87(2)(b) car. When § 87(2)(b) opened the door and began to step out of his car, two uniformed police officers stepped out of the dark blue Crown Victoria and quickly approached § 87(2)(b). § 87(2)(b) described the driver of the dark blue Crown Victoria as a white male, 5’9”-5’10”, with a muscular build, dark hair, a black skull cap, a police windbreaker, and army blue pants; and he described the passenger as a white male, 5’9”-5’10”, with a less muscular build than the driver, dark hair, a black skull cap, a police windbreaker, and army blue cargo pants. (This investigation identified the driver of the vehicle as Sgt. Gregory Pekera, but it could not identify the officer § 87(2)(b) described as the passenger.)

As § 87(2)(b) was stepping out of his vehicle, Sgt. Pekera opened § 87(2)(b) door the rest of the way, grabbed § 87(2)(b) by the front of his jacket, pulled him completely out of the car and slammed his back against the grey Honda sedan. § 87(2)(b) was not moving his arms or legs in any way when Sgt. Pekera grabbed him. Sgt. Pekera pressed his forearm against the upper part of § 87(2)(b)’s chest, then pulled him away from the car and pushed him face-down onto the ground. Sgt. Pekera asked § 87(2)(b) “Where the fuck are you going? Were you trying to run from us?” § 87(2)(b) responded, “No, sir. I’m trying to go to the smoke shop.” As he lay with his chin on the ground, ready to be handcuffed, the passenger walked over to § 87(2)(b) left side and stood in front of § 87(2)(b). The passenger then bent down and punched § 87(2)(b) once with his right hand on the left side of § 87(2)(b) face, near his earlobe. The passenger did not punch § 87(2)(b) hard enough to break his skin or leave a bruise. The passenger told § 87(2)(b) “You’re lucky I wasn’t the one who took you out of the car because you would’ve had a real beating. You would’ve ended up in the hospital.”

As Sgt. Pekera and the passenger were arresting § 87(2)(b) and § 87(2)(b), § 87(2)(b) stayed inside of their vehicle. Two minutes after § 87(2)(b) was placed on the ground, another officer—described by § 87(2)(b) as a white male, taller than 5’9”-5’10”, younger than Sgt. Pekera and the passenger, with spiky hair, a skinny build, and a uniform—who was walking nearby, came over to the scene of § 87(2)(b) arrest. This officer handcuffed § 87(2)(b) as he lay on the ground, then he frisked § 87(2)(b). After this, Sgt. Pekera and the passenger loaded § 87(2)(b) into the dark blue Crown Victoria. As § 87(2)(b) waited in the car, Sgt. Pekera and the passenger began to speak to § 87(2)(b) and § 87(2)(b). Also around this time, approximately 8 or 9 additional officers (all white males in uniforms) arrived in two police cars and one police van. A number of officers removed § 87(2)(b) and § 87(2)(b) from the grey Honda sedan and began to search this car. § 87(2)(b) had his head down for much of the vehicle search, so he did not see exactly what was happening. After they finished the vehicle search, Sgt. Pekera and the passenger released § 87(2)(b) and § 87(2)(b).

When Sgt. Pekera and the passenger re-entered the Crown Victoria, the passenger asked § 87(2)(b) why he had run. § 87(2)(b) denied fleeing the officers. The passenger informed § 87(2)(b) that the officers had found 3 oz. of marijuana in the Honda sedan. § 87(2)(b) was unaware of this marijuana. The passenger told § 87(2)(b) “If you wouldn’t have tried to run, we would have let you go. We would have

just taken the 3 oz. and let you go. But we saw that you were going to try to run, so now you're in deep shit." The passenger showed § 87(2)(b) the marijuana the officers had discovered: it was distributed in three 1-oz. bags. Sgt. Pekera and the passenger transported § 87(2)(b) to the 34th Precinct station house, where the officer who frisked § 87(2)(b) processed his arrest.

§ 87(2)(b)

§ 87(2)(b) denied having any drugs or weapons in his possession prior to his arrest. He knew that § 87(2)(b) and his friends had a \$20 bag of marijuana, but he did not know about the three 1 oz. bags. He denied that this marijuana was his, and he added that he did not know who these narcotics belonged to. He additionally affirmed that the officers did not find any drugs or weapons on his person.

When asked whether any of the officers had ever hit him with a radio or kicked him—as § 87(2)(b) reported to IAB—§ 87(2)(b) responded negatively. He said that he only told § 87(2)(b) that he had been hit in the face; he denied mentioning a police radio.

§ 87(2)(b) stated that he sustained a scrape on the back of his left hand, near his thumb, as a result of Sgt. Pekera pushing him to the ground. He acknowledged that he had no injuries which would be visible in his arrest photograph, and he added that he neither requested medical attention nor sought medical treatment after this incident.

§ 87(2)(b) did not know the full names, addresses, or phone numbers of § 87(2)(b) or § 87(2)(b) but he offered to ask his sister to contact the investigator with this information. In addition, § 87(2)(b) drew a map of the location where he was arrested, which has been added to the case file (Encl. 8E).

Between August 13, 2008 and August 29, 2008, the investigator called § 87(2)(b) four times and sent him two letters, in an attempt to schedule him for an appointment to view an officer photo array at the CCRB. During a telephone conversation on August 29, 2008, § 87(2)(b) arranged for a photo viewing session at the CCRB on September 9, 2008. However, § 87(2)(b) failed to appear at the CCRB for this appointment, and he failed to respond to a fifth phone call and a third letter requesting that he contact the CCRB to schedule another appointment.

Results of Investigation

Attempts to Identify and Contact Additional Witnesses

§ 87(2)(b) failed to provide the CCRB with the names of the individuals present for his arrest—§ 87(2)(b) and § 87(2)(b) claiming that he did not know their full names or any of their contact information. Due to § 87(2)(b)'s incarcerated status, the investigator contacted § 87(2)(b) on numerous occasions to obtain any known identifying information for § 87(2)(b) and § 87(2)(b) yet § 87(2)(b) claimed not to know the identities of § 87(2)(b)'s friends, and she reported to the CCRB that conversations with § 87(2)(b) to this end were unsuccessful. § 87(2)(b) did provide the CCRB with the names of two possible witnesses—§ 87(2)(b) and § 87(2)(b) but phone calls to § 87(2)(b) (the mother of § 87(2)(b)'s child) and § 87(2)(b) (a former co-worker of § 87(2)(b)) confirmed that they were not present for § 87(2)(b)'s arrest. § 87(2)(b) mentioned that a friend of hers, § 87(2)(b), claimed to have received information from an unidentified cousin regarding the circumstances of § 87(2)(b)'s arrest, but she could not provide any contact information for § 87(2)(b) and various internet searches for contact information for § 87(2)(b) did not yield any apparently relevant listings, due in large part to § 87(2)(b)'s inability to provide § 87(2)(b) address or borough of residence.

Civilians Not Interviewed

§ 87(2)(g)

Officer Statements

PO Peter Bolte

Memo Book

PO Bolte prepared the following memo book entries regarding the arrest of § 87(2)(b). At 2:05 AM on October 16, 2007, PO Bolte marked the end of his tour, but he later crossed off this entry and wrote “small knife” (Encl. 12A-B).

BADS Arrest Report/OLBS Worksheet/Criminal Complaint Report (UF-61)

In § 87(2)(b)'s arrest paperwork, PO Bolte charged § 87(2)(b) with § 87(2)(b) and he wrote the following narrative: “At T/P/O defendant was found to be in possession of marijuana and a gravity knife.” In the BADS arrest report and the OLBS worksheet, PO Bolte marked § 87(2)(b) and § 87(2)(b) as § 87(2)(b)'s arrest location. In the corresponding UF-61 § 87(2)(b), PO Bolte wrote, “At T/P/O upon sight of police, suspect immediately fled, dropping one gravity knife. 3 large bags of marijuana were also recovered from suspect’s pants. Canvass conducted. Sgt. on scene.” In addition, he recorded § 87(2)(b) and § 87(2)(b) as the arrest location. PO Bolte also included the make, model, and license plate number of § 87(2)(b)'s vehicle in the UF-61, noting that the vehicle was “used in a crime.” In all of the documents, PO Bolte noted that no force was used to effect § 87(2)(b)'s arrest (Encl. 13A-E).

Property Vouchers

PO Bolte prepared § 87(2)(b)'s property vouchers during his arrest processing. Voucher #§ 87(2)(b) is for three clear plastic bags of marijuana (Security envelope #§ 87(2)(b), Narco #§ 87(2)(b) and Voucher #§ 87(2)(b) is for one silver gravity knife (Security envelope #§ 87(2)(b) (Encl. 14A-B).

Prisoner Pedigree Card

In § 87(2)(b)'s prisoner pedigree card, PO Bolte observed that § 87(2)(b)'s physical/mental condition was “apparently normal,” noting that § 87(2)(b) did not request medical attention—and in fact refused medical attention (Encl. 15).

Criminal Court Complaint and Supporting Deposition

In the criminal court complaint and supporting deposition for § 87(2)(b)'s arrest, PO Bolte wrote that he was informed by Sgt. Pekera that “Officer Pekera observed the defendant § 87(2)(b) holding a gravity knife in [his] hands and then drop said gravity knife to the ground,” and that “Officer Pekera recovered said gravity knife from the ground.” PO Bolte also wrote that “Officer Pekera” confirmed that the knife was in fact a gravity knife, and he remarked that § 87(2)(b) had previously been convicted of a crime in 2003. In addition, PO Bolte wrote that he was informed by PO Maric that PO Maric recovered “a substance having an aggregate weight of more than two ounces containing marijuana from the defendant’s pant’s legs [sic].” (Encl. 16A-B)

CCRB Testimony

PO Bolte was interviewed at the CCRB on February 28, 2008 (Encl. 17A-C). PO Bolte is a § 87(2)(b) old white male, 6’1”, 200 lbs., with brown hair and green eyes.

PO Bolte worked a tour of 3:30 PM-2:05 AM on the night of October 15, 2007. He was assigned to Auto Larceny Patrol with PO Maric and Sgt. Pekera. All officers were in uniform, and they were assigned to an unmarked blue Crown Victoria (#§ 87(2)(b)).

On October 16, 2007 at approximately 12:15 AM, PO Bolte, Sgt. Pekera, and PO Maric were driving along § 87(2)(b) between § 87(2)(b) and § 87(2)(b) when they observed a vehicle with illegally tinted windows. The officers decided to conduct a routine traffic stop to cite the owners of the vehicle for illegal window tints, so Sgt. Pekera—who was driving the car—turned on the Crown Victoria’s flashing lights. The Crown Victoria was behind the civilian vehicle at this time. When Sgt. Pekera activated the Crown

Victoria's lights, a man (later identified as § 87(2)(b)) jumped out of the rear passenger door of the vehicle as it was still in motion, and began to run along § 87(2)(b) away from the officers. PO Bolte exited the Crown Victoria and pursued § 87(2)(b) on foot, as Sgt. Pekera and PO Maric stopped the vehicle from which § 87(2)(b) had emerged. PO Bolte did not suspect § 87(2)(b) of any particular crime at this point, but § 87(2)(b)'s actions (exiting a moving vehicle and fleeing from the police) raised PO Bolte's level of suspicion that he was engaging in some kind of crime. PO Bolte yelled to § 87(2)(b) to stop as § 87(2)(b) was 2-3 car lengths ahead of him, but § 87(2)(b) only looked back at PO Bolte, then continued running.

As § 87(2)(b) reached § 87(2)(b) and § 87(2)(b) PO Bolte heard him drop something; he did not see § 87(2)(b) drop this item, but he distinctly remembered hearing the sound of it hitting the pavement. He believed that the item in question was a knife, but he could not clarify what it was that led him to this conclusion. § 87(2)(b) crossed all four lanes of traffic on § 87(2)(b) apparently unaware that there was a group of 5-6 impact "rookies" on foot on the far side of this road. The impact officers saw PO Bolte pursuing § 87(2)(b) so they, too, gave chase, and Sgt. Pekera put a call over the radio regarding a fleeing suspect. After § 87(2)(b) crossed § 87(2)(b) unidentified impact officers apprehended him at § 87(2)(b) and § 87(2)(b) PO Bolte did not see how the impact officers effected this arrest, as he was still coming around the corner at § 87(2)(b) and § 87(2)(b) at this time; but when he arrived at § 87(2)(b) and § 87(2)(b) § 87(2)(b) was seated on the sidewalk, with his hands cuffed behind his back, and an impact officer was removing 5" x 7" bags of marijuana from the bottom of § 87(2)(b) pants legs. PO Bolte did not say anything to § 87(2)(b) at this time (to his recollection, § 87(2)(b) was not saying anything at all), nor did he make any physical contact with him. PO Bolte thanked the impact officers for their help, and he asked the officers in a nearby 33rd or 34th Precinct sector car to take § 87(2)(b) back to the station house.

Because PO Bolte had heard § 87(2)(b) drop something, possibly a knife, during his pursuit, he and a number of officers from the 33rd Precinct canvassed the immediate vicinity of the chase. He could not recall the results of this canvass. Two to three minutes after he completed the canvass, PO Bolte walked back to § 87(2)(b) and § 87(2)(b) where PO Maric and Sgt. Pekera had stopped the vehicle in which § 87(2)(b) had been traveling. The other three civilians with whom § 87(2)(b) had been traveling § 87(2)(b) and § 87(2)(b) were still inside of their car. PO Bolte did not know whether PO Maric and Sgt. Pekera ever removed these civilians from their car, or whether any UF-250s were filled out on their behalf. PO Bolte told PO Maric and Sgt. Pekera what he had recovered from § 87(2)(b) and that all officers involved were all right, but the officers did not discuss the vehicle stop. Sgt. Pekera did not indicate that the discovery of marijuana on § 87(2)(b) affected his assessment of what he would do with § 87(2)(b) and § 87(2)(b) § 87(2)(b) and § 87(2)(b) did not seem to be concerned about what had happened with § 87(2)(b) PO Bolte denied speaking with the other civilians in the car, and he never learned their names. Similarly, PO Bolte did not conduct any additional investigation into the men's relationship to § 87(2)(b) and he did not know whether PO Maric or Sgt. Pekera did. § 87(2)(b) and § 87(2)(b) were ultimately released.

PO Bolte, PO Maric, and Sgt. Pekera returned to the 34th Precinct station house, where PO Bolte processed § 87(2)(b) arrest. § 87(2)(b) was cooperative throughout his arrest processing.

Neither PO Bolte nor any other officer directed any profanity at § 87(2)(b) on October 15 or October 16, 2007. PO Bolte did not see any officers searching § 87(2)(b)'s vehicle.

Sgt. Gregory Pekera

Memo Book

Sgt. Pekera wrote the following entries in his memo book regarding the arrest of § 87(2)(b) at 12:15 AM on October 16, 2007, PO Bolte placed one individual under arrest for § 87(2)(b) at § 87(2)(b) at § 87(2)(b) in Manhattan (Encl. 18A-B).

CCRB Testimony

Sgt. Pekera was interviewed at the CCRB on March 5, 2008 (Encl. 19A-E). Sgt. Pekera is a § 87(2)(b) old white male, 5'9", 175 lbs., with brown hair and brown eyes.

Sgt. Pekera worked a tour of 5:13 PM-2:10 AM on the night of October 15, 2007. He was assigned to Manhattan North Auto Larceny patrol with PO Bolte and PO Maric. The officers were all in uniform, and they were assigned to an unmarked blue Crown Victoria (#§ 87(2)(b)).

On October 16, 2007 at 12:15 AM, Sgt. Pekera was driving the unmarked blue Crown Victoria north along § 87(2)(b) when he observed a tan or silver Chevrolet Impala with dark tinted windows traveling southbound on § 87(2)(b). He made a U-turn in order to conduct a routine traffic stop on this Impala. He intended to speak with the driver about the tinted windows, and possibly to issue a summons for these windows. When Sgt. Pekera completed his U-turn, he noticed that the Impala had made a left turn onto § 87(2)(b). By the time that Sgt. Pekera turned onto § 87(2)(b) he observed that the Impala's left rear door was open, and an individual (later determined to be § 87(2)(b)) was sprinting from the car up onto the sidewalk, away from Sgt. Pekera's vehicle and towards § 87(2)(b). Sgt. Pekera had not yet activated the Crown Victoria's lights and sirens, as he had only just begun to pursue the Impala when he noticed § 87(2)(b) flight. At this time, the Impala was moving very slowly, so Sgt. Pekera slowed down behind it, allowing PO Bolte to exit the Crown Victoria and pursue § 87(2)(b) on foot. Sgt. Pekera heard PO Bolte yelling, but he could hear what exactly PO Bolte was saying. It was only at this time that Sgt. Pekera flicked on the Crown Victoria's lights. Sgt. Pekera did not suspect § 87(2)(b) of any particular crime at this point; he just wanted to know the reasons for § 87(2)(b) actions.

The Impala pulled over to the side of the road, and Sgt. Pekera stopped his vehicle behind it. Sgt. Pekera and PO Maric exited their vehicle and approached the Impala, whose left rear door was still flung open. PO Bolte and § 87(2)(b) were out of eyesight at this time. When asked what his intention was at the point that he approached the Impala, Sgt. Pekera responded, "I didn't know really what we were dealing with: an individual jumped out of the vehicle, and I don't know if he jumped out and left a large amount of drugs [or if] he [left] a weapon in the car." The investigator asked whether Sgt. Pekera suspected the occupants of the car of criminality as well as § 87(2)(b) or whether he only suspected § 87(2)(b) of criminality at this point. Sgt. Pekera responded that tactically, he had to consider § 87(2)(b)'s companions suspects because he had no idea what the Impala had been involved in, what was still in the vehicle, etc., so he had to assume for his safety that he was dealing with a "serious situation." Additionally, Sgt. Pekera acknowledged that for these reasons, he feared for his safety and he was "hyper-alert."

Sgt. Pekera walked towards the driver's side of the Impala, and PO Maric walked towards the passenger side. Sgt. Pekera ordered the driver of the Impala (a black or Hispanic male) to roll down his window. When the driver complied, Sgt. Pekera asked him for his license and registration, and he ordered him to turn off the car and hand him the keys. He then asked the driver a few questions pertaining to the owner of the vehicle. Additionally, Sgt. Pekera put over a radio transmission stating that he had an officer who was chasing a suspect down § 87(2)(b) and that the suspect and PO Bolte had recently made a right turn onto § 87(2)(b) heading towards § 87(2)(b).

Sgt. Pekera asked the driver of the Impala why § 87(2)(b) had run. The driver responded that he did not know. Sgt. Pekera described the occupants of the car (the driver as well as two other black or Hispanic males) as "nervous" and "trying to distance themselves from what had just happened." On further questioning, Sgt. Pekera stated that he considered the driver's answer to be "evasive." As he stood near the driver's side window and spoke with the driver, Sgt. Pekera detected an odor of marijuana inside of the Impala. Sgt. Pekera could not determine the specific source of the scent, nor could he see anything that confirmed his olfactory observation, but he could tell that the smell was coming from the car in general. Sgt. Pekera asked the occupants of the car if anybody in the car had any marijuana. He initially said that the driver did not give him either an affirmative or a negative answer, but he later stated that all of the men in the car denied possessing any marijuana. Again, Sgt. Pekera asked the occupants of the vehicle why § 87(2)(b) had run. The men in the Impala did not say anything. Sgt. Pekera asked the driver to step out of the vehicle, and PO Maric asked the individuals in the front and rear passenger seats to step out of the vehicle. The men complied. When asked why he ordered the men out of the vehicle, Sgt. Pekera responded, "I didn't know what we were dealing with: I had an odor of marijuana in the vehicle, there could have been more marijuana in the vehicle left there, I was concerned that maybe § 87(2)(b) had thrown a weapon down or a gun and tried to ditch it and then run, so I didn't know if I had a weapon in the vehicle at all. At that point, the plate wasn't checked on the car—I didn't know if the car was stolen—there were so many things up in the air, as well as if there's this odor of marijuana in the vehicle, and... if the driver's smoking marijuana, then he could be under the influence and that could lead to an arrest as well." On further questioning with respect to his specific reason for asking the men to exit their vehicle, Sgt. Pekera stated that he made this decision based on a concern for his safety because he did not know what was inside of the vehicle. When asked what particular crimes he suspected the occupants of the vehicle may have been involved in, Sgt. Pekera replied criminal possession of a weapon, criminal possession of a controlled substance, grand larceny auto, and possibly driving while intoxicated. When asked whether there was anything else that raised his suspicion that there may have been a weapon in

the Impala, other than § 87(2)(b) flight, Sgt. Pekera responded, “Just the fact that he jumped out and could have left something...When someone flees a vehicle, maybe he had thrown a weapon down or maybe he knew there was a gun in the car and just wanted to get out of there before we did a car stop, thinking that maybe we would find it. Those things alone in my mind raised me up enough to be concerned that there was some sort of weapon in that vehicle.”

Once the occupants of the Impala were outside of their vehicle, Sgt. Pekera frisked the driver’s pockets and waistband area, and PO Maric frisked the passengers’ pockets and waistband areas in an attempt to determine whether they had any weapons; and Sgt. Pekera ordered them to stand behind the Impala. The men complied. Around this time, a number of additional units from the 33rd and 34th Precincts arrived at the scene in marked patrol cars. Sgt. Pekera then went into the vehicle and searched around and under the front and rear seats of the vehicle—what he described as “lungeable areas” or “anywhere that somebody could have thrown something really quick”—to see whether there were any marijuana or weapons in the car. He later clarified that he initially searched the vehicle just for weapons, and although he did not find any weapons, the issue of the marijuana smell remained, so he searched the car for marijuana. No other officers searched the car. Once Sgt. Pekera completed his search of the car, and he was satisfied that there was nothing illegal inside (they found no weapons or marijuana, but only some cigar wrappers and empty baggies), they instructed the occupants of the Impala to get back into their car.

PO Maric took down the names of the men in the Impala and filled out a corresponding number of UF-250s, which Sgt. Pekera later signed. Sgt. Pekera said that they used this information to verify the owner of the Impala, and it turned out to be one of the occupants of the car. Around this time, PO Bolte returned to the scene of the vehicle stop with § 87(2)(b) § 87(2)(b) was calm at this point, and he did not appear to be injured in any way. PO Bolte informed Sgt. Pekera that he had found two large bags of marijuana on § 87(2)(b) and that when he and a number of other officers conducted a canvass of the route § 87(2)(b) took in his flight, they recovered a gravity knife on the sidewalk. Sgt. Pekera viewed this knife and confirmed that it was a gravity knife. PO Bolte did not indicate to Sgt. Pekera why he decided to conduct this canvass, whether he saw § 87(2)(b) drop anything, or where specifically he found the gravity knife.

Sgt. Pekera and PO Maric arrested § 87(2)(b) and released his friends. On further questioning, he explained: “Once we didn’t find anything in the vehicle, they were put back in the vehicle. The plate was run and didn’t come back stolen...And then the fact that § 87(2)(b) had the marijuana on his person would lead to a better explanation of the marijuana smell in the car...Their demeanor was fine: they weren’t combative, they weren’t uncooperative at that point...They gave us their information, and we gave the owner of the car a little bit of a warning on the window tints, and that was basically it.” Sgt. Pekera, PO Bolte, and PO Maric loaded § 87(2)(b) into their car and returned to the 34th Precinct station house to process § 87(2)(b) arrest. Sgt. Pekera denied speaking to § 87(2)(b) as he was inside of the car. PO Bolte processed § 87(2)(b) arrest.

The investigator directed Sgt. Pekera’s attention to the criminal court complaint against § 87(2)(b) and asked him to read its contents into the record. The investigator asked Sgt. Pekera if this document indicated that he testified that he observed § 87(2)(b) holding a gravity knife and dropping it to the ground. Sgt. Pekera stated that he did not actually make this observation.

Sgt. Pekera did not see any officers use any physical force against § 87(2)(b). He did not direct any profanity at § 87(2)(b) nor did he hear any other officers direct any profanity at § 87(2)(b).

PO Miroslav Maric

Memo Book

PO Maric wrote the following entries in his memo book regarding the arrest of § 87(2)(b) at 12:15 AM on October 16, 2007, PO Bolte placed one individual under arrest, and he recovered three bags of marijuana from the suspect. In addition, at this time PO Maric prepared three UF-250s. On his flysheet, he wrote the names, dates of birth, and addresses of § 87(2)(b)’s companions—§ 87(2)(b) and § 87(2)(b) (Encl. 20A-D).

Stop and Frisk Reports

PO Maric prepared UF-250s for § 87(2)(b) and § 87(2)(b) on October 16, 2007 at 12:15 AM. He noted that he stopped all three individuals at § 87(2)(b) and § 87(2)(b) on suspicion of CPW/CPM, and that he detained the men for ten minutes. He listed the following circumstances leading to the stop: “furtive movements” and “other reasonable suspicion of criminal activity – occupant fled vehicle/odor of marijuana.” In addition, he noted that all three men were frisked based on their furtive

movements, and they were searched because of “hard object[s]” in their possession. No weapon was found in the men’s possession, but other contraband was found—“marijuana from [the] occupant who fled.” PO Maric described the men’s demeanor as “apparently normal.” He also indicated the following additional circumstances/factors in the stop: “changing direction at sight of officer/flight” (Encl. 21A-F).

CCRB Testimony

PO Maric was interviewed at the CCRB on April 28, 2008 (Encl. 22A-C). PO Maric is a § 87(2)(b)-old white male, 5’8”, 233 lbs., with brown hair and brown eyes.

PO Maric worked a tour of 6:00 PM-2:05 AM on the night of October 15, 2007. He was assigned to Auto Larceny patrol in an unmarked patrol car (#§ 87(2)(b) with PO Bolte and Sgt. Pekera. All officers were dressed in uniform.

§ 87(2)(g)
He did not recall questioning § 87(2)(b) and § 87(2)(b) regarding their relationship to § 87(2)(b) or their knowledge of § 87(2)(b)’s reasons for fleeing the police, prior to Sgt. Pekera’s order that they step out of their car. He did not see where specifically in § 87(2)(b)’s vehicle Sgt. Pekera searched, as he was concerned with detaining § 87(2)(b) and § 87(2)(b). He could not recall who transported § 87(2)(b) to the 34th Precinct station house following his arrest. He only became aware that § 87(2)(b) had been in possession of marijuana when he arrived at the 34th Precinct station house and observed the arrest evidence (two large Ziploc bags containing marijuana). He denied interacting with § 87(2)(b) at all on the night of October 15, 2007. Finally, when the investigator directed his attention to the criminal court complaint against § 87(2)(b) specifically, the section in which PO Bolte asserts that PO Maric recovered marijuana from § 87(2)(b)’s pants legs—PO Maric stated that he was present for the recovery of these narcotics, which he believed took place at the station house. When asked for clarification, PO Maric explained that PO Bolte had been aware that § 87(2)(b) was storing marijuana in his pants legs—given the bulges they formed and the scent they emanated—but that he did not want to strip § 87(2)(b) in the street to gain access to these narcotics, so he waited until § 87(2)(b) was brought to the station house to remove this arrest evidence. In addition, PO Maric did not see the gravity knife recovered from § 87(2)(b).

PO Diane Johnson

Memo Book

PO Johnson prepared the following memo book entries regarding the arrest of § 87(2)(b). At 11:20 PM, she picked up a foot pursuit at § 87(2)(b) and § 87(2)(b) and at 11:40 PM, she returned to her foot post (Encl. 23A-C).

CCRB Testimony

PO Johnson was interviewed at the CCRB on April 21, 2008 (Encl. 24A-B). PO Johnson is a § 87(2)(b)-year-old Hispanic female, 5’4”, 160 lbs., with brown hair and brown eyes.

PO Johnson worked a tour of 5:30 PM-2:05 AM on the night of October 15, 2007. She was assigned to a foot post in the vicinity of § 87(2)(b) and § 87(2)(b) in Manhattan. PO Johnson was working alone, and she was dressed in uniform.

On October 15, 2007 at approximately 11:20 PM, PO Johnson was standing at her foot post in the vicinity of § 87(2)(b) and § 87(2)(b) when she observed a male civilian (identified by the CCRB as § 87(2)(b)) running from a male officer in a nylon NYPD jacket (identified by the CCRB as PO Bolte). The men ran from § 87(2)(b) across § 87(2)(b) and onto § 87(2)(b). PO Johnson did not hear either § 87(2)(b) or PO Bolte say anything. She did not see any other officers in the area. PO Johnson gave chase along § 87(2)(b). PO Bolte did not call for assistance, so PO Johnson made this decision of her own volition—but by the time that she turned left onto § 87(2)(b) three uniformed officers had already placed § 87(2)(b) face-down on the ground, and they were in the process of handcuffing him. § 87(2)(b) did not appear to be moving his body in any way as he was being handcuffed, nor was he saying anything at this time. PO Johnson did not see any of these officers strike § 87(2)(b) nor did she hear any of these officers saying anything to him. These officers then searched § 87(2)(b) and found a large bag of marijuana stored near his ankle. PO Johnson did not actually see § 87(2)(b) being searched, but the officers who searched him announced their find, and one of the officers held the marijuana in his hand, so it was visible to PO Johnson.

A number of plainclothes officers arrived in the area after § 87(2)(b) was placed under arrest. PO Johnson did not know who any of these officers were, what command they were from, or what (if any) vehicles they were using. PO Johnson confirmed that the officers did not need any assistance, and she returned to her foot post. She did not participate in a canvass of the area.

As for the officers who stopped § 87(2)(b) PO Johnson could not say what command they were from—she did not recognize them—but she surmised that they could have been from 174 (MN/IRT) or the 33rd Precinct. She stated that PO Bolte was not among these officers, as he arrived right after PO Johnson. She described the officers in question as two light-skinned males and one dark-skinned male. PO Johnson confirmed that she did not see any patrol cars in the area when she first arrived on § 87(2)(b).

PO Andrew Miles

Memo Book

PO Miles registered the following entries in his memo book regarding the arrest of § 87(2)(b) at 12:10 AM on October 16, 2007, he stopped two individuals at § 87(2)(b) and § 87(2)(b) and at 12:15 AM, he issued two summonses for § 87(2)(b) (Encl. 25A-C).

CCRB Testimony

PO Miles was interviewed at the CCRB on April 22, 2008 (Encl. 26A-B). PO Miles is a § 87(2)(b)-old white male, 5'10", 215 lbs., with brown hair and blue eyes. PO Miles was assigned to the Manhattan North Impact Response Team at the time of this incident.

PO Miles worked a tour of 5:30 PM-2:05 AM on October 15, 2007. He was assigned to a foot post in the vicinity of § 87(2)(b) and § 87(2)(b) within the confines of the 33rd Precinct, and he was dressed in uniform.

On October 15, 2007 at approximately 12:10 AM, PO Miles was at his foot post in the vicinity of § 87(2)(b) and § 87(2)(b) when he observed an unmarked car with plainclothes officers parked nearby. The unmarked car was located on § 87(2)(b) near § 87(2)(b). PO Miles walked over to see whether the plainclothes officers needed any assistance. On the way, he encountered PO Diane Johnson, also from MN/IRT, who informed him that the unmarked car had stopped one individual near this location. When he arrived near the unmarked car, one unidentified plainclothes officer told PO Miles that he needed assistance with crowd control near § 87(2)(b) and § 87(2)(b) as he believed the defendant who was already under arrest in the unmarked car (identified by the CCRB as § 87(2)(b)) may have tried to discard some contraband near this location. PO Miles complied, and he walked over to § 87(2)(b) and § 87(2)(b) where a crowd had begun to form. PO Miles ordered the civilians at this location to disperse. One male (identified by PO Miles as § 87(2)(b)) refused to leave the site, so PO Miles issued him a summons for disorderly conduct (failure to disperse). While PO Miles was serving his summons to § 87(2)(b) the plainclothes officers were looking around § 87(2)(b) and § 87(2)(b) with flashlights, conducting a canvass for contraband. To PO Miles' recollection, the officers did not recover anything during this canvass. Around the time that PO Miles finished issuing his summons to § 87(2)(b) the plainclothes officers were completing their canvass and preparing to leave the premises with § 87(2)(b). PO Miles subsequently resumed patrol.

PO Miles never saw § 87(2)(b) on this night, nor did he see a civilian vehicle that had been stopped by the unmarked car he observed at § 87(2)(b) and § 87(2)(b). Likewise, he did not see a foot pursuit involving officers and a civilian, nor did he see any of the plainclothes officers searching any vehicle. As for the officers he saw on the scene, PO Miles did not recall seeing any officers other than MN/IRT officers and the plainclothes officers in the unmarked vehicle.

PO Kamal McAllister

Memo Book

PO McAllister did not have any memo book entries about the arrest of § 87(2)(b) (Encl. 27A-B).

CCRB Testimony

PO McAllister was interviewed at the CCRB on March 16, 2008 (Encl. 28A-B). PO McAllister is a § 87(2)(b)-old black male, 5'7", 157 lbs., with black hair and brown eyes. PO McAllister was assigned to the Manhattan North Impact Response Team at the time of this incident.

PO McAllister worked a tour of 5:30 PM-2:05 AM on the night of October 15, 2007. He was assigned to a fixed post at § 87(2)(b) and § 87(2)(b) in Manhattan. He did not have any partners on this date, and he was not assigned to a vehicle. He was in uniform.

PO McAllister did not have any independent recollection of the arrest of § 87(2)(b) on October 16, 2007 at 12:15 AM. The investigator provided PO McAllister with some background information concerning the circumstances of § 87(2)(b) arrest, but PO McAllister maintained that he did not recall being involved in this police action to any extent. The investigator directed PO McAllister's attention to § 87(2)(b) arrest photograph, and PO McAllister verified that he did not recognize § 87(2)(b) and that he did not interact with § 87(2)(b) on the morning of October 16, 2007.

Sgt. Gilbert Vega

Memo Book

Sgt. Vega did not make any entries in his memo book about the arrest of § 87(2)(b) (Encl. 29A-C)

CCRB Testimony

Sgt. Vega was interviewed at the CCRB on May 28, 2008 (Encl. 30A-B). Sgt. Vega is a § 87(2)(b)-old Hispanic male, 6'0", 235 lbs., with black hair and hazel eyes.

Sgt. Vega worked a tour of 5:15 PM-2:12 AM as FTU Supervisor on the night of October 15, 2007. As FTU Supervisor, Sgt. Vega oversaw the activities of a group of rookie officers on foot post in the 33rd Precinct. Sgt. Vega was working alone on this night. He was assigned to a marked patrol car, and he was in uniform.

Sgt. Vega had no recollection of an arrest at § 87(2)(b) and § 87(2)(b) on October 16, 2007 at 12:15 AM. He affirmed that he was inside of the 33rd Precinct station house for a meal break for the entire hour between 12:00 AM and 1:00 AM, as noted in his memo book. He was not in the vicinity of § 87(2)(b) and § 87(2)(b) at any point during that hour, and he did not record in his memo book whether he traveled to this location upon resuming patrol at 1:00 AM. He did not assist in any arrest on this night, nor did he participate in any canvass of the vicinity of § 87(2)(b) and § 87(2)(b). Sgt. Vega did not recall any radio runs about a foot pursuit and an arrest at § 87(2)(b) and § 87(2)(b) on this night. The investigator directed Sgt. Vega's attention to § 87(2)(b)'s arrest photograph, and Sgt. Vega confirmed that he did not recognize § 87(2)(b).

NYPD Documents

Sprint Report

The Sprint for this incident (Job #M14194) is classified as a 10-13U2 (assist uniformed officer/outside), and it indicates that at 11:54 PM on October 15, 2007, the Auto Larceny Sergeant (Sgt. Pekera) reported a foot pursuit at § 87(2)(b) and § 87(2)(b) in Manhattan. Sgt. Pekera described the perpetrator as a Hispanic male, approximately 5'6", wearing a black leather jacket. At 11:55 PM, a sergeant from the 33rd Precinct arrived at the scene, and Sgt. Pekera called for no further units at the location. At 11:56 PM, Sgt. Pekera reported that his team had a car stopped with three possible perpetrators inside, and one male had been stopped at § 87(2)(b) and § 87(2)(b). At 11:57 PM, Sgt. Pekera reported that officers were looking for a weapon along § 87(2)(b) § 87(2)(b) between § 87(2)(b) and § 87(2)(b). At 11:58 PM, the officers in Sectors 33A and 33B arrived on the scene. At 11:59 PM, Sgt. Pekera reported that all units were accounted for, and that no officers were injured. At 12:18 AM, the officers in 33SP4 radioed a 10-82 (verification/arrest). Between 12:21 AM and 1:00 AM, all of the officers from the 33rd Precinct resumed patrol (Encl. 31A-D).

Computerized Stop, Question, and Frisk Logs

The computerized Stop, Question, and Frisk Logs for the 33rd and 34th Precincts for October 15, 2007 and October 16, 2007 do not include the UF-250s prepared by PO Maric for § 87(2)(b) and § 87(2)(b) (Encl. 32-33).

MISD Warrant Transaction Log

The MISC warrant transaction log for October 16, 2007 confirms that Sgt. Pekera performed a vehicle ownership check on § 87(2)(b)'s vehicle's license plate at 12:10 AM (Encl. 34A-D).

Patrol Borough Manhattan North Anti-Crime Auto Larceny Unit Roll Call

The PBMN Anti-Crime Auto Larceny Unit Roll Call for October 15, 2007 confirms that PO Bolte, PO Maric, and Sgt. Pekera were assigned to unmarked vehicle #87(2) for a tour of 5:30 PM-2:05 AM (Encl. 35A-B).

34th Precinct Command Log

The entry for § 87(2)(b)'s arrest was registered in the 34th Precinct Command Log at 12:41 AM on October 16, 2007. In the section describing § 87(2)(b)'s physical/mental condition, the desk sergeant noted that § 87(2)(b) had a "normal appearance" (Encl. 36A-B).

34th Precinct Prisoner Property Invoice

PO Bolte registered § 87(2)(b)'s property in the 34th Precinct prisoner property invoice form. The items vouchered and the invoice numbers assigned to these vouchers are consistent with those listed in § 87(2)(b)'s arrest report and with the information on the vouchers themselves (Encl. 37A-B).

33rd Precinct Roll Call

The 33rd Precinct Roll Call for October 15, 2007 confirms that Sgt. Vega was working as supervisor for the Field Training Unit for a tour of 5:15 PM-2:12 AM (Encl. 38A-R).

Manhattan North Impact Response Team Roll Call

The Manhattan North IRT Roll Call for October 15, 2007 confirms that PO Johnson was assigned to Post #5 ([REDACTED] § 87(2)(b) [REDACTED] [REDACTED] and § 87(2)(b) [REDACTED] PO McAllister was assigned to Post #6 ([REDACTED] § 87(2)(b) [REDACTED] [REDACTED] and § 87(2)(b) [REDACTED] and PO Miles was assigned to Post #7 ([REDACTED] § 87(2)(b) [REDACTED] [REDACTED] and § 87(2)(b) [REDACTED] for a tour of 5:30 PM-2:05 AM (Encl. 39A-D).

Status of Criminal Case

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

[illegible]

Subject Officers' CCRB Histories

During his 11 years with the NYPD, Sgt. Pekera has only been the subject of one substantiated allegation resulting in the imposition of discipline: In CCRB #200701549, Sgt. Pekera was found to have

Assessment of Evidence

§ 87(2)(g)

[REDACTED]

§ 87(2)(g) § 87(2)(b)

alleged that he was forcibly stopped by Sgt. Pekera and his partner immediately upon his emergence from § 87(2)(b)'s vehicle—specifically, he claimed that Sgt. Pekera pushed him against § 87(2)(b)'s car, then threw him onto the pavement and cursed at him, at which time Sgt. Pekera's partner bent down and punched him once on the side of his head. He additionally claimed that his friends were in possession of a small quantity of marijuana, which they intended to smoke at the West Side Highway, once they obtained rolling papers at a smoke shop at § 87(2)(b) and § 87(2)(b), yet he professed ignorance of the three bags of marijuana and the gravity knife vouchered by PO Bolte, alleging that the officers must have recovered the former items in the search of § 87(2)(b)'s vehicle—§ 87(2)(g)—and fervently maintaining that he had never before seen the latter item. § 87(2)(g)

[REDACTED]

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegations Not Pleaded

§ 87(2)(g)

t.

Allegation A: Sgt. Gregory Pekera stopped the vehicle in which § 87(2)(b) **and** § 87(2)(b) **were occupants.**

Allegation E: Sgt. Gregory Pekera stopped § 87(2)(b) **and** § 87(2)(b)

Allegation F: Sgt. Gregory Pekera searched the vehicle in which § 87(2)(b) **and** § 87(2)(b) **were occupants.**

§ 87(2)(g)

According to the New York Vehicle and Traffic Laws, Section 375, Sub-Section 12, it is unlawful to operate a vehicle with windows “composed of, covered by or treated with any material which has a light transmittance of less than seventy percent” (Encl. 1A-D). As per Kamins, the observation of such a “defect” on a civilian vehicle permits the police to stop said vehicle, with at minimum reasonable suspicion that its owner has committed a violation of the VTL (Encl. 2A-C) § 87(2)(g)

According to Kamins, New York Courts have held that when an officer stops a vehicle based on a violation of the VTL, “once the officer issues a summons and determines that the driver’s license, registration, and insurance are in order, the initial justification for seizing and detaining the suspect is exhausted,” and any further detention of the occupants of that vehicle is unlawful (Encl. 2D). However, Kamins writes, “if during a lawful traffic stop, the officer makes observations that justify a reasonable suspicion of criminal activity, he will be permitted to detain the motorist for further questioning” (Encl. 2E). The same holds true for passengers in a vehicle under investigation (Encl. 2F-J).

§ 87(2)(g)

Kamins notes, “where indicia of criminal activity already exist, flight becomes an important factor,” as does a suspect’s manner- and direction of flight (Encl. 2K-M). In addition, “if a suspect flees *before* the police ask him any questions, this conduct has been viewed as an escalating factor because the suspect has, in effect, demonstrated a consciousness of guilt” (Encl. 2M, emphasis in original). Focusing specifically on the case of a passenger fleeing a vehicle stopped for a VTL infraction, Kamins observes that “when [this] passenger engages in conduct that creates a reasonable suspicion, the police are justified in pursuing or stopping him” (Encl. 2I) § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation B: Sgt. Gregory Pekera used physical force against § 87(2)(b)
Allegation C: Sgt. Gregory Pekera spoke obscenely and rudely to § 87(2)(b)
Allegation D: An officer used physical force against § 87(2)(b)

§ 87(2)(g)

Allegation G: An officer spoke obscenely and rudely to § 87(2)(b)

§ 87(2)(g)

Investigator:	Date:
Supervisor:	Date:
Reviewed by:	Date:
Reviewed by:	Date: